IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3207 of 2005

Mr Mahesh Revachand Khanna and anr Petitioners
Vs
The State of Maharashtra and anr. Respondents.

Mr Sudhir C Halli, for the petitioenrs.
Mr S.H.Saluja i/b Mr M.V.Kini for respondent no.1
Mr A.S.Shitole, APP for the respondent.

CORAM : D.B.BHOSALE, J.

DATED : 14th July, 2006

P.C.:

1. Heard the learned counsel for the parties.

2. By this petition, the petitioners are seeking to quash criminal cases, bearing C.C. Nos 4226/S/2002, 467/S/2003, 166/S/03 and 1999/S/2003 pending before the Metropolitan Magistrate's Court at Andheri, Mumbai. Admittedly, the petitioners were liable to pay certain amount to the respondent-complainant and for which they had issued the cheques and since they were dishonoured the aforestated complaints in Mumbai and some complaints in Delhi were filed under section 138 of the Negotiable Instruments Act. It appears that the parties were also before the Debts Recovery Tribuanl-III, where the consent terms were filed on 6.7.2004. As per the consent terms the petitioners had agreed to pay the amounts by five instalments as

full and final settlement and on receipt of that amount the respondent-complainant was to withdraw all the criminal cases under section 138 of the Negotiable Instruments Act. It appears that the petitioners paid first two instalments only. Mr Halli, learned counsel for the petitioners, submits that after payment of first two instalments the complainant was to withdraw all the complaints and since they did not do so, the petitioners did not pay remaining instalments. From perusal of the consent terms, it is clear that the complainant had agreed to withdraw the complaints under section 138 only after receipt of all the instalments, and as a result of the defaults the complainant is entitled to execute the decree. Considering the terms of the consent terms and other material placed before me, I find absolutely no merit in the petition seeking quashing of the complaints. The writ petition is accordingly dismissed.

(D.B.BHOSALE,J.)